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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 VAHAN JALADIAN,

No. CIV S-04-1304-LKK-CMK-P

12 Plaintiff,

13 vs.

ORDER

14 CRIBBS,

15 Defendant.
16 _____/

17 Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant
18 to 42 U.S.C. § 1983. Pending before the court is Plaintiff's "Notice of Material Breach of the
19 Terms and Conditions of Settlement Agreement Affecting Stipulation for Voluntary Dismissal"
20 (Doc. 104).

21 The parties to this action entered in to a settlement agreement, and filed a
22 Stipulation for Voluntary Dismissal on September 21, 2009 (Doc. 102). Plaintiff is now
23 claiming that Defendant filed the Stipulation for Voluntary Dismissal before the terms of the
24 settlement had been fully complied with, in breach of their agreement. Specifically, Plaintiff
25 claims that he received only partial payment of the settlement agreement.

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1 The court will construe Plaintiff's filing as a motion to vacate the judgment under
2 Federal Rule of Civil Procedure 60(b). As such, and due to the misconduct Plaintiff has alleged,
3 the court directs Defendant to file a response to Plaintiff's motion, within 20 days of the date of
4 service of this order.

5 IT IS SO ORDERED.

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8 DATED: October 13, 2009

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10 **CRAIG M. KELLISON**
11 UNITED STATES MAGISTRATE JUDGE
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